

II. INTELLIGENCE AUTHORITIES AND RESPONSIBILITIES

1. The intelligence authorities and responsibilities of senior officers and organizations of the Intelligence Community currently are defined in much more detail and much more comprehensively in Executive Orders and other Executive Branch directives than by statute. This is particularly true with respect to the Director of Central Intelligence and the Secretaries of State and Defense. The Central Intelligence Agency is the only intelligence organization with a statutory charter.

2. DIRECTOR OF CENTRAL INTELLIGENCE

a. The only statutory responsibility specifically referencing the DCI is the charge in the National Security Act of 1947 that he "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."*

b. The National Security Act authorizes the DCI to terminate the employment of any CIA officer or employee whenever he considers such necessary or advisable in the interests of the United States. The Act also provides that intelligence of the departments and agencies of the Government that relates to the national security shall be open to DCI inspection and shall be made available to the DCI for correlation, evaluation and dissemination.

c. The Act designates the DCI as the head of the CIA, so the duties that the Act gives to the CIA are in practice DCI responsibilities. The duties assigned to the CIA in the Act "for the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security" are to:

(1) Advise the National Security Council on intelligence matters

*All references in this section to the National Security Act relate to 50 U.S.C.A. 403.

(2) Make recommendations to the NSC for the coordination of intelligence activities

(3) Correlate, evaluate and disseminate intelligence relating to the national security

(4) Perform such services of common concern as the NSC determines can be more efficiently accomplished centrally

(5) "Perform such other functions and duties related to intelligence affecting the national security as the NSC may from time to time direct."

d. The National Security Act makes no mention of any DCI or CIA authority to collect intelligence information or to produce intelligence, although such activities can be derived from the charge in paragraph c.(5) above, which has been implemented by a series of National Security Council Intelligence Directives.

e. The Central Intelligence Agency Act of 1949 (63 Stat 208, P.L. 81-110, June 20, 1949) as amended, provides for the administration of the CIA and does not relate to the role of the DCI in the Intelligence Community.

f. Except for the National Security Act of 1947, as amended, the primary current statement of DCI responsibilities and authorities is set forth in Executive Order 11905, effective 18 February 1976, at Section 3(d).

g. The duties and responsibilities assigned to the DCI in the Executive Order can be divided into three categories:

(1) RESPONSIBILITIES EXTERNAL TO THE INTELLIGENCE COMMUNITY

- Act as primary advisor on foreign intelligence to the President
- Provide the President and other Executive Branch officials with foreign intelligence, including NIEs

- Chair the NSC Policy Review Committee when it considers intelligence matters, particularly the National Foreign Intelligence Program and budget
- Serve as principal Intelligence Community spokesman to the Congress
- Facilitate the use of foreign intelligence products by the Congress
- Consult with users and producers of intelligence to ensure the timeliness, relevance and quality of the intelligence products.

(2) COLLECTION AND PRODUCTION OF INTELLIGENCE

- Develop national intelligence requirements and priorities
- Supervise production and dissemination of national intelligence

(3) MANAGEMENT

- Act as executive head of the CIA and the Intelligence Community Staff
- Ensure development and submission of the NFIP budget to the PRC
- Ensure appropriate implementation of special activities
- Establish procedures to ensure propriety of requests, and responses thereto, from the White House staff and the Executive Departments
- Ensure programs are developed to protect intelligence sources and methods and analytic procedures
- Establish a program to downgrade and declassify foreign intelligence information

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- Ensure existence of strong Inspector General capabilities throughout the Intelligence Community, and that the IGs submit quarterly reports to the Intelligence Oversight Board
- Ensure establishment by the Intelligence Community of common security standards
- Promote development and maintenance by CIA of services of common concern
- Establish criteria for transmission of critical intelligence
- Provide guidance to the Secretary of Defense re communications requirements for transmission of critical intelligence
- Establish committees of collectors, producers and users of intelligence as appropriate

h. Execution of the responsibilities assigned to the DCI in the "management" category pose continuing problems, primarily because of the potentiality of conflict with the prerogatives of departmental secretaries. The DCI can direct or task only the CIA and his Intelligence Community Staff. His charge to "ensure the development and submission" of the NFIP budget is subject to interpretation, and there are those who believe this does not mean "prepare" the budget. The DCI has no means to "ensure the existence" of strong IG capabilities, particularly since most of the IGs involved are not even part of an Intelligence Community organization. If an organization, other than CIA, is unwilling to participate in a service of common concern established by the DCI, the Director has no way to require participation.

i. The responsibilities and problems involved in the functioning of the Intelligence Community emphasize that it is not a hierarchical organization with a single line of command. It is an association of intelligence organizations with shared objectives and responsibilities, but in which departmental and agency prerogatives carry considerable weight.

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3. SECRETARY OF STATE

a. While what Executive Order 11905 designates as the "intelligence element of the Department of State"--the Bureau of Intelligence and Research--is a relatively small element of the Department, the Secretary of State provides a major input to national intelligence information through the reporting of overseas Foreign Service Officers.

b. The basic duties and responsibilities of the Secretary of State, as contained in an Act of Congress of 27 July 1789, and the statutory functions of the Foreign Service (22 U.S. 841) are very general in nature. Foreign intelligence activities of the department and the Foreign Service have developed from the fact that most Presidents have used the Secretary of State as their principal advisor and agent in foreign affairs.

c. The State Department operated a cryptanalytic unit for several years following World War I and operated clandestine collection networks during and after World War II.

d. Executive Order 9621 on 20 September 1945 created a separate intelligence organization in the Department of State by transferring the Research and Analysis Branch of the wartime Office of Strategic Services (OSS) to the department. A Special Assistant to the Secretary for Research and Intelligence was appointed to head the new organization, into which several existing State units were incorporated. Several internal changes followed, leading to establishment in early 1947 of the present Bureau of Intelligence and Research (INR/State).

e. Executive Order 11905, at Section 4(c) assigns seven intelligence responsibilities to the Secretary of State as follows:

(1) Collect, overtly, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information;

(2) Produce and disseminate foreign intelligence relating to United States foreign policy;

(3) Disseminate within the U.S. Government, as appropriate, reports received from U.S. diplomatic missions abroad;

(4) Coordinate with the DCI to ensure U.S. intelligence activities and programs are useful for and consistent with U.S. foreign policy;

(5) Transmit reporting requirements of the Intelligence Community to U.S. Chiefs of Mission abroad and provide guidance for their collection effort;

(6) Contribute to the Intelligence Community guidance for collection of intelligence based on the needs of those responsible for foreign policy decisions;

(7) Support Chiefs of Mission in discharging their responsibilities to direct and coordinate the activities of all elements of their mission.

4. SECRETARY OF DEFENSE

a. Since about four-fifths of Intelligence Community resources are utilized by Defense Department organizations, the functioning of the Community is importantly affected by the authority over all facets of the administration of the defense establishment given to the Secretary of Defense by the National Security Act of 1947.

b. The Secretary of Defense can effect major organizational changes affecting intelligence activities by merely issuing a directive. The Defense Intelligence Agency was created by such a directive in 1961, and a number of organizational restructures affecting intelligence have occurred in the Office of the Secretary of Defense by departmental directive.

c. The intelligence element in the Office of the Secretary of Defense was not listed as part of the Intelligence Community in Executive Order 11905, but in the latest of a series of reorganizations the Secretary of Defense on 11 March 1977 established an Assistant Secretary of Defense (Communications, Command, Control and Intelligence) [DoD Directive 5137.1]

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d. This directive provides that the ASD(C³I) shall, among other duties:

"Exercise direction, authority and control over all DoD actions to allocate resources for intelligence activities, except those organic to combatant forces and those intelligence support activities specifically delegated to the Joint Chiefs of Staff. Authority over the intelligence activities of the Military Departments will be exercised through the Secretary of the Military Department concerned." (Para III I)

e. Among other intelligence responsibilities, the ASD(C³I) is to "review the quality and timeliness of products and their effectiveness for users," and exercise, subject to the direction of DDR&E, the DDR&E's "direction, authority and control" over all research and development matters relating to intelligence.

f. The ASD(C³I) responsibilities extend to surveillance, warning and reconnaissance related to intelligence, the integration of national and tactical intelligence, and intelligence collection and processing, but do not include the operational direction of intelligence activities.

g. DoD Directive 5137.1 cancelled DoD Directive 5115.1, "Assistant Secretary of Defense (Intelligence)/Director of Defense Intelligence," issued 20 July 1976, one element of which provided that the chain of command ran from the Secretary of Defense to the Director of the Defense Intelligence Agency rather than, as previously, through the Joint Chiefs of Staff to the Director.

h. Intelligence responsibilities of the Secretary of Defense as described in Sec. 4.(e) of Executive Order 11905, provide that he shall:

(1) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of his responsibilities.

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(2) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and intentions and scientific, technical and economic developments pertinent to his responsibilities;

(3) Conduct such programs and missions necessary to fulfill national intelligence requirements as determined by the NSC Policy Review Committee;

(4) Direct, fund and operate the National Security Agency, and national, defense, and military intelligence and reconnaissance entities as required;

(5) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the PRC;

(6) Provide for the timely transmission of critical intelligence, as defined by the DCI, within the United States Government.

i. The tendency in recent years toward centralizing coordination and oversight of Intelligence Community activities and, in particular, toward enhancing the Community role of the DCI has brought focus to bear on the conflict between the DCI's assigned responsibilities and the authorities of the Secretary of Defense, particularly as regards preparation of the National Foreign Intelligence Program and its budget. Delineation between national, departmental and tactical intelligence requirements has proved difficult. Improvement in the interface between national and tactical intelligence is a continuing problem.

j. The DCI is responsible for national intelligence; the Secretary of Defense for departmental intelligence. Yet problems arise because national and departmental intelligence make use of the same information in many instances, the same Defense Department collection assets are used to acquire both national and departmental information, and the Defense analysts who produce departmental intelligence also contribute to the production of national intelligence.

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k. Any effort to change existing Intelligence Community arrangements or to alter the role of the senior U.S. foreign intelligence officer will have to pay major attention to reconciliation of the role and responsibilities of this officer as against the authorities regarding Defense intelligence of the Secretary of Defense.

1. The DCI role in wartime and the utilization of CIA resources in wartime have been a subject of considerable discussion through the years.

(1) A Memorandum of Understanding between the Secretary of Defense and the DCI, dated 6 January 1963 provided that a CIA liaison element will be made available to the appropriate military commander in a contingency situation. The liaison element will provide CIA reports directly to the military commander and coordinate CIA and military operations that may impact upon each other. This agreement will be implemented only by mutual agreement between the DCI and the JCS. It was last implemented in the Middle East War of 1967, when a CIA liaison element was assigned to the Commander of the Sixth Fleet.

(2) A Command Relationships Agreement between the Secretary of Defense and the DCI, issued as JCS-SM-622-57, dated 27 August 1957, sets forth the principles which will govern relationships between the Armed services and the CIA as regards conduct of unconventional warfare, clandestine intelligence, psychological warfare and related activities in active theaters of war where American forces are engaged. The CRA:

(a) Will be implemented by mutual agreement between the DCI and the Joint Chiefs of Staff. (To date it never has been implemented, despite the lengthy Southeast Asia operation.)

(b) Provides that, upon implementation, CIA activities in active theaters of war will come under the operational direction of the military commander, except for such sensitive operations as the DCI considers must retain under his direct control.

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(c) Does not preclude Armed Forces activities of a nature similar to those under CIA auspices.

(3) A need to update the Command Relationships Agreement has been recognized, and the problem has been examined both by the Joint Chiefs of Staff and by the CIA, but no new agreement has been developed.

m. The interface between national and tactical intelligence, to which the Command Relationship Agreement is related, is a complex problem in peacetime as well as in contingency situations and in theaters of active warfare. A clearer understanding of the DCI role and the relationship between his responsibilities and those of the Secretary of Defense in wartime should be an integral part of any reexamination of the position of the DCI in the U.S. foreign Intelligence Community.

n. NATIONAL SECURITY AGENCY

(1) The National Security Agency was established by Presidential directive in October 1952 as a separately organized agency within the Department of Defense. The President designated the Secretary of Defense as executive agent for the communications intelligence and communications security activities of the U.S. Government. The communications intelligence function was expanded to signals intelligence, including electronic intelligence, in 1958.

(2) The NSA was successor to the Armed Forces Security Agency (AFSA) that had been created after World War II in a move to integrate the national cryptologic effort.

(3) Although the order creating the NSA assigned it control of operations of the three service cryptologic organizations (Army Security Agency, Naval Security Group and Air Force Security Service) there were continuing jurisdictional differences. To cope with this, the President's memorandum of 5 November 1971 on "Organization and Management of the U.S. Foreign Intelligence Community," called for establishment of a Central Security Service to provide a more unified cryptologic organization within DoD and to improve the operational linkage between NSA and the military service cryptologic assets involved in collection against national intelligence requirements.

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(4) The President's memorandum of November 1971 was reflected in a revised NSCID No. 6, "Signals Intelligence," effective 17 February 1972. The Central Security Service is principally collection oriented. The Director of NSA is also Chief of the CSS, and the headquarters of both organizations are co-located.

(5) In implementation of the President's memorandum and NSCID No. 6, the Department of Defense issued DoD Directive S-5100.2, "The National Security Agency and the Central Security Service," on 23 December 1971, and DoD Directive S-3115.7, "Signals Intelligence (SIGINT)," on 25 January 1973.

(6) Executive Order 11905 designates NSA as a member of the Intelligence Community at Sec. 2.(b)(2) and describes NSA functions at Sec. 4.(e)(2)(ii).

o. DEFENSE INTELLIGENCE AGENCY

(1) The Defense Intelligence Agency was established in August 1961 by the Secretary of Defense in an effort to achieve more centralized management control of Defense intelligence activities which would lead to a more efficient allocation of intelligence resources and the elimination of duplicative facilities and organizations.

(2) DIA's mission as defined in DoD Directive 5105.21 dated 16 December 1976 is "to satisfy, or to ensure the satisfaction of, the foreign intelligence requirements of the Secretary of Defense, the Joint Chiefs of Staff, DoD components and other authorized recipients, and to provide the military intelligence contribution to national intelligence." The Director of DIA is responsible for the J-2 function in the Joint Chiefs of Staff, and under DoD Directive 5100.1, dated 31 January 1977, the JCS are to "provide adequate, timely and reliable joint intelligence for use within the Department of Defense.

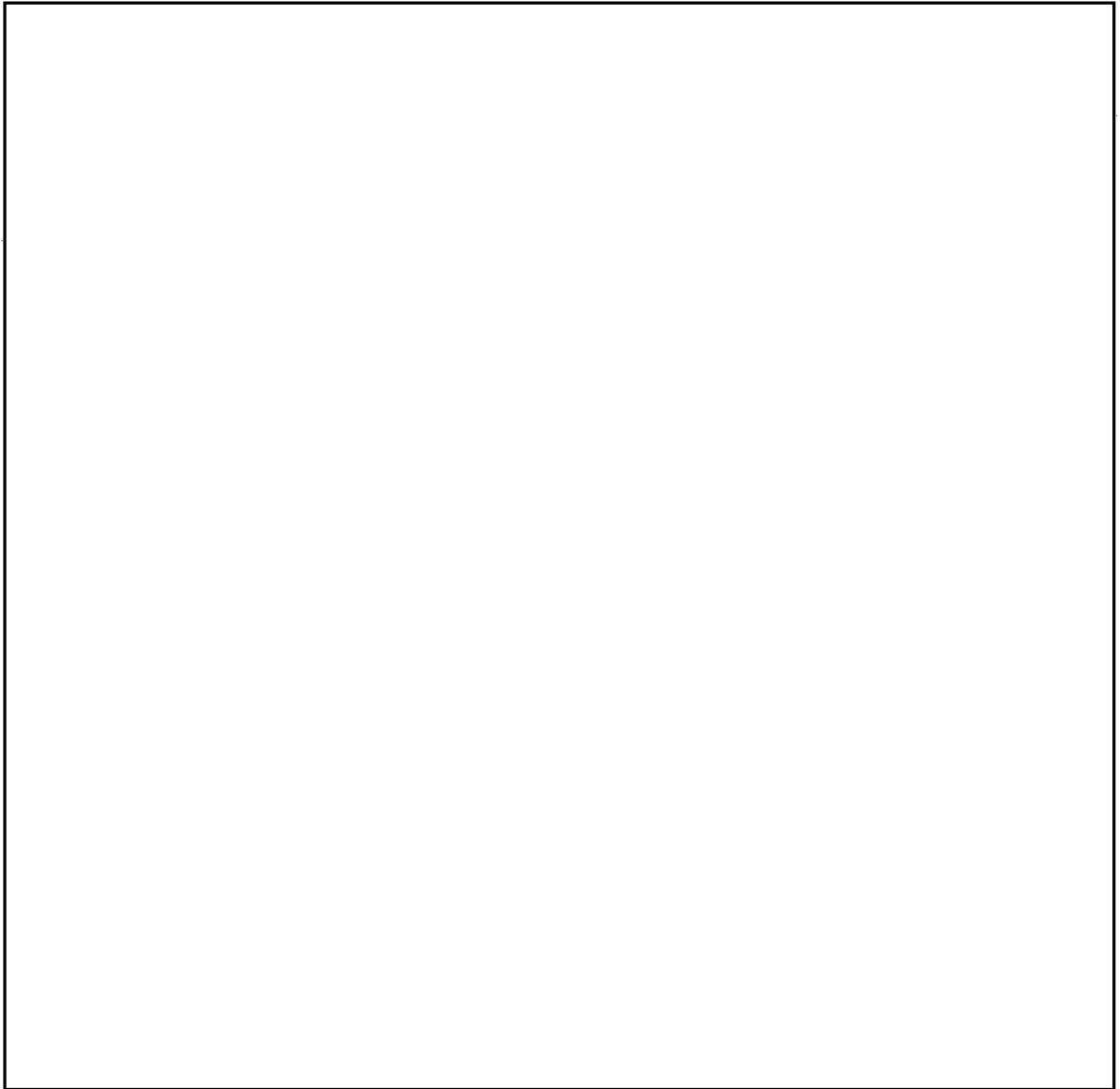
(3) The DIA reviews and coordinates the departmental intelligence functions retained by or assigned to the military departments, and develops guidance for the conduct and management of such functions for review, approval and promulgation by the Secretary of Defense.

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(4) Executive Order 11905 lists the DIA as a member of the Intelligence Community at Sec. 2(b)(3) and describes DIA functions at Sec. 4(e)(2)(i).

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q. ARMY, NAVY, AIR FORCE AND MARINE CORPS INTELLIGENCE FUNCTIONS

(1) The National Security Act of 1947, as amended by the Department of Defense Reorganization Act of 1958, provides that the Military Departments shall collect, evaluate, correlate and disseminate departmental intelligence.

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(2) DoD Directive 5100.1, current version of which is dated 31 January 1977, charges the Military Departments to "provide adequate, timely and reliable departmental intelligence for use within the Department of Defense." These responsibilities are accomplished primarily within the Military Services. DoD Directive 5100.1 tasks the Army and Air Force to each "provide an organization capable of furnishing adequate, timely and reliable intelligence." The directive also states that a primary Navy and Marine Corps function is to "furnish adequate, timely and reliable intelligence for the Navy and Marine Corps." An intelligence organization and possession of viable in-house intelligence capabilities are viewed by the Military Services as necessary for the operations, preparedness and effectiveness of the military forces.

5. SECRETARY OF THE TREASURY

a. The Treasury Department was created by an act of Congress approved 2 September 1789 (1 Stat. 65; 31 U.S.C. 1000) and has markedly expanded in role and function through the years, but its formal participation in foreign intelligence activities is less than ten years old.

b. A Special Assistant to the Secretary of the Treasury for National Security Affairs was appointed in May 1961, primarily to handle National Security Council matters, and gradually an intelligence function evolved. The President's memorandum of 5 November 1971 on organization and management of the Intelligence Community added a Treasury representative to the United States Intelligence Board and the Special Assistant became that representative. His small staff is the "intelligence element of the Department of the Treasury" to which reference is made in E.O. 11905 when the Order lists components of the Intelligence Community.

c. The intelligence responsibilities of the Secretary of the Treasury, as defined in Section 4(d) of E.O. 11905 are to:

(1) Collect, overtly, foreign financial and monetary information;

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(2) Participate with the Department of State in the overt collection of general foreign economic information;

(3) Produce that intelligence required for execution of the Secretary's interdepartmental responsibilities and the mission of the Treasury Department;

(4) Contribute intelligence and guidance required for the development of national intelligence;

(5) Disseminate within the U.S. Government, as appropriate, foreign intelligence information acquired.

d. The Treasury Attaches stationed overseas are in a position to acquire information of value for intelligence purposes, but (as is the case with Foreign Service Officers stationed abroad) are not considered part of the Intelligence Community.

6. DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

a. Although the office of the Attorney General was created in 1789, and the Department of Justice was established by statute in 1870, the Federal Bureau of Investigation did not come into being until 1908, when the Attorney General directed that Department of Justice investigations be handled by a group of special investigators.

b. Only the Intelligence Division of the FBI is considered part of the foreign Intelligence Community. This represents a very small part of the total resources of the FBI.

c. Executive Order 11905 at Sec. 2(b)(6) lists the "intelligence element" of the FBI as a member of the Intelligence Community, and at Sec. 4(g) charges the FBI Director to:

(1) Detect and prevent espionage, sabotage, subversion and other unlawful activities by or on behalf of foreign powers through such lawful counter-intelligence operations within the U.S., including electronic surveillance, as are necessary or useful for such purposes.

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(2) Conduct within the U.S. and its territories, when requested by officials of the Intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other intelligence agencies.

(3) Collect foreign intelligence by lawful means within the U.S. and its territories when requested by officials of the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and counterintelligence information it acquires to appropriate Federal, State and local law enforcement agencies and cooperating foreign governments.

(5) Carry out or contract for research, development and procurement of technical systems relating to functions authorized above.

7. ADMINISTRATOR, ENERGY RESEARCH AND DEVELOPMENT
ADMINISTRATION (ERDA)

a. The smallest element of the Intelligence Community, in terms of manpower, is the ERDA Division of International Security Affairs, the Director of which reports to the Assistant Administrator for National Security.

b. ERDA was established by the Energy Reorganization Act of 1974 (88 Stat. 1233; 3. U.S.C. 301), and ERDA was activated on 19 January 1975 by Executive Order 11834 of 15 January 1975.

c. The Atomic Energy Commission was one of a number of Government organizations whose functions were folded into ERDA. The AEC had participated in Intelligence Community activities and had a member on the United States Intelligence Board (now the National Foreign Intelligence Board). ERDA assumed the intelligence role formerly the responsibility of the AEC.

d. Neither the Energy Reorganization Act of 1974 nor Executive Order 11834 made reference to an intelligence mission for ERDA. Its participation in intelligence activities is supported by designation of the intelligence element of ERDA as a member of the Intelligence Community in Sec. 2(b)(9) of Executive Order 11905 and definition of the intelligence responsibilities of the Administrator of ERDA in Sec. 4(f) as follows:

(1) Produce intelligence required for his responsibilities and the ERDA mission, including the area of nuclear and atomic energy;

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations;

(3) Be responsive to the guidance of the DCI and the NSC Policy Review Committee;

(4) Participate with other Intelligence Community organizations in formulating collection requirements where ERDA has special technical competence.

8. NATIONAL SECURITY COUNCIL INTELLIGENCE DIRECTIVES

a. In one basic area, National Security Council Directives, the present situation is anomalous.

(1) The presently effective NSCIDs Nos. 1 through 8 were issued in February 1972 after being updated to reflect the President's memorandum of 5 November 1971 on "Organization and Management of the U.S. Foreign Intelligence Community."

(2) Executive Order 11905, issued in February 1972, provided that all NSCIDs and other pertinent directives be brought into consonance with the Order within 90 days. The NSC Committee on Foreign Intelligence redrafted the NSCIDs within the time limit and submitted them to the NSC for approval.

(3) For a number of reasons, primarily related to FOIA court actions seeking declassification and release of all NSCIDs, no action was taken by the NSC.

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(4) In March 1977, the NSC Staff returned the NSCIDs, as revised nearly a year earlier by the CFI, to the DCI with a request they be again updated in the light of decisions to be made as a result of PRM-11.

b. The currently effective 1972 version of NSCID No. 1, "Basic Responsibilities," is quite out of date. The other NSCIDs need varying amounts of revision, but still have enough currency to provide continuing guidance to the Intelligence Community.

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29 March 1977

NOTE FOR: Director, OPEI

FROM:

SA-D/DCI/IC

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SUBJECT: Part II of Task 2 Response to
PRM-11

Attached is my draft of what started out as the text for Part II of the outline you prepared for the DCI paper responding to his task for PRM-11.

It still could be used as Part II, but I suggest instead that it be incorporated in the paper as an Annex. The material does not lend itself to the way I consider the text of the overall paper should flow, but the information still is important for completeness of coverage, which is why I recommend it be included as an Annex.

Attachment:
As stated

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NOTES: